



09/833,118

DAC JTW

PATENT  
Customer No. 22,852  
Attorney Docket No. 6832.0017-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Craig A. Rosen et al.

Group Art Unit: 1653

Patent No.: 6,905,688 B2

Examiner: Hope A. Robinson

Issued: June 14, 2005

For: ALBUMIN FUSION PROTEINS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT**

In accordance with 37 C.F.R. § 1.705(b), Patentees hereby apply for patent term adjustment under 35 U.S.C. § 154(b) of 120 days. This application is being filed within two months of issuance of the above patent, as required by 37 C.F.R. § 1.705(d).

**I. Statement of the Facts Involved**

**A. Correct Patent Term Adjustment**

The information printed on the face of the above-identified issued patent states that this patent is entitled to 406 days of patent term adjustment.

However, Patentees have calculated a patent term adjustment of 539 days based on the following facts:

**Relevant Dates**

The above-identified application was allowed on July 20, 2004.

The issue fee was paid on September 3, 2004

An Application for Patent Term Adjustment - Pre-Grant was filed with the issue fee payment on September 3, 2004. We have received no response to our petition from the Patent and Trademark Office (PTO) to date. We requested the withdrawal of a 13-day deduction.

The Issue Notification was mailed May 25, 2005 which stated that Applicants are entitled to 406 days of patent term adjustment. Applicants checked the patent term adjustment on PAIR. PAIR showed a 120-day delay for a miscellaneous incoming letter on September 3, 2004. However, there is also a notation of a workflow incoming petition IFW on September 3, 2004. A call was placed to the Office of Patent Legal Administration on June 10, 2005, to inquire about the 120-day deduction in patent term adjustment. Applicants were told that the Application for Patent Term Adjustment - Pre-Grant was miscoded in the system as a miscellaneous incoming letter. As a result, Applicants were charged with the maximum 120 days deductible from the filing of the "miscellaneous incoming letter" to the date the patent issued on June 14, 2005. Therefore, 120 days should not have been deducted.

Accordingly, Applicants should be entitled to the 120 days, plus the 13 days requested in the petition filed September 3, 2004, for a total of 133 days of patent term adjustment in addition to the 406 days to which Applicants are already entitled. Accordingly, the total adjustment based on PTO delay is 539 days and the reductions in term adjustment is 0 days, resulting in a patent term adjustment of 539 days total. Patentees respectfully request that the current patent term adjustment be reconsidered.

## **B. Terminal Disclaimer**

The above-identified application is not subject to a Terminal Disclaimer.

## **C. Reasonable Efforts**

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

## **II. Fee**

Patentees request that the PTO waive the fee for this petition as this petition is being filed to correct an error in coding of the Application for Patent Term Adjustment - Pre Grant filed September 3, 2004. Please charge any deficiencies to our Deposit Account No. 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: August 12, 2005

By: Charles E. Van Horn  
Charles E. Van Horn  
Reg. No. 40,266